

CONTRACT

MAINTENANCE AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

and

COMMUNICATIONS SUPPLY CORPORATION

THIS AGREEMENT is made and entered into this 1st day of Nov., 2012, by and between Cuyahoga County, Ohio (the "County"), on behalf of the Information Services Center and Communications Supply Corporation ("CSC"), a Ohio corporation, having principal place of business at 160 E. Voris Street, Akron Ohio.(the Provider)

WHEREAS, the County has a present need for renewal and upgrade of maintenance service of the "Fluke OptiView Equipment" used by the Information Services Center; and

WHEREAS, CSC, is the lowest bidder for maintenance and upgrade service of the "Fluke OptiView Equipment", and can provide maintenance service of that equipment; and

WHEREAS, the County desires to avail itself of Maintenance of the "Fluke OptiView Equipment" located at the Cuyahoga County, Information Services Center and CSC is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CSC and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

- 1.1 Scope of Agreement. During the term of this Contract, CSC shall provide the County with all Maintenance Services of "OptiView Equipment as listed on the attached Quote 517043-1, attached hereto and incorporated by reference herein as Schedule A.
- 1.2 Term. The term of this Contract shall commence as of December 1, 2012; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year from commencement date. (12/1/12 through 11/30/13). The cost of this Contract shall not exceed **Twenty One Thousand Six Hundred Seventy Five Dollars and Eighty Two Cents (\$21,675.82).**

ARTICLE II - SCOPE OF WORK

2.1 Rendering of Services. CSC hereby agrees to render the services identified in Article 1.1 and Schedule A at a total price not to exceed **Twenty One Thousand Six Hundred Seventy Five Dollars and Eighty Two Cents (\$21,675.82)**. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

ARTICLE III – PAYMENT AND INVOICING

- 3.1 Payment. During the term of this contract, the County shall pay CSC for the services outlined in Schedule A upon receipt of said invoice and approval of the County Executive.
- 3.2 Invoicing. CSC shall invoice the County for the services outlined in Schedule A upon execution of this Contract. CSC shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES

- 4.1 Indemnification. CSC shall agree to release, indemnify and to hold harmless Cuyahoga County and any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for CSC's gross negligence or willful misconduct under this contract.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

- 5.1 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. CSC, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

- 5.2 Termination for Financial Instability. In the event that CSC becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against CSC of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

- 6.1. By entering into this Contract, CSC, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.
- 6.2 CSC further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VII – MISCELLANEOUS

- 7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Information Services Center
ATTN: Mike Young, CTO
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of CSC:

Christine Longville, Branch Manager
Communications Supply Corporation
160 E. Voris Street
Akron, Ohio 44311

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

- 7.2 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.
- 7.3 Record Audit Retention. CSC agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should CSC be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.
- 7.4 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.
- 7.5 Social Security Act. CSC shall be and remain an independent CSC with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by CSC for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said CSC also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.
- 7.6 Assignment. CSC shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the County Executive.
- 7.7 Contract Processing. CSC shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Information Services Center
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

7.8 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by CSC prior to the execution of this agreement by the County Executive, the same will be provided at CSC 's risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

7.9 Schedules Incorporated by Reference. The following Schedules are attached hereto and are incorporated herein:

Schedule A: Quote # 517043-1

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

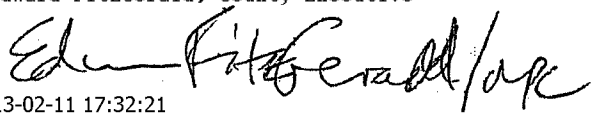
IN WITNESS WHEREOF, the County and CSC have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

COMMUNICATIONS SUPPLY
CORPORATION

BY: 

CUYAHOGA COUNTY, OHIO

Edward FitzGerald, County Executive

BY:  2013-02-11 17:32:21

Edward FitzGerald, County Executive



QUOTATION: 517043-1

Provided By: Denise Marabito

09/27/2012

Organization: CUYAHOGA COUNTY INFORMATION SERVICES

Customer Name:

Quote for Dottie Slevers CCISC Fluke 9-27-12
255 Euclid Ave., 4th floor
LEVELAND OH 44115-1807
Fax: 216/698-2597

Schedule A

Communications Supply Corp.

www.gocsc.com
DMarabito@gocsc.com
Tel: 330-208-1905
Fax: 330-208-1920

Line br.	Mfrgr CSC	Mfrgr PN GLD-OF	CSC PN	Description	Qty	Unit	Unit Price	Unit	Ext. Price
1	GSA SCHEDULE FOR CSC			Fluke - GOLD SUPPORT SERVICES 1- YR OF-500. OPTIFBR MAINFRAME, (CSC Number:786179) *GSA Price \$561.03*	1	EA	\$560.98	EA	\$560.98
2	GSA SCHEDULE FOR CSC	GLD-OF-500-M10		Fluke - 1 YR GOLD SUPPORT FOR OF- 500-M10 *GSA Price \$1873.72*	1	EA	\$1,873.00	EA	\$1,873.00
3	GSA SCHEDULE FOR CSC	GLD-OF-500-M10		Fluke - GOLD SUPPORT SERVICES 1- YR OF-500. OPTIFBR MAINFRAME, (CSC Number:786179) *GSA Price \$561.03*	4	EA	\$1,091.00	EA	\$4,364.00
4	GSA SCHEDULE FOR CSC	OPVS2- S3/GIG/EK		Fluke - OPTVIEW S2 GIG TO S3 Upgrade kit (CSC Number: 817286) *GSA Price \$6723.68*	1	EA	\$6,723.00	EA	\$6,723.00
5	GSA SCHEDULE FOR CSC	GLD- OPVS3/PSVS		Fluke - GOLD SUPPORT SERVICES 1- YR OPV-GIG/PSVS (RHD included), (CSC Number:755567) *GSA Price \$4533.06*	1	EA	\$4,533.00	EA	\$4,533.00
6	GSA SCHEDULE FOR CSC	GLD-OPVS3/MS		Fluke - GOLD SUPPORT-OPTVIEW WITH WIRELESS OPTION *GSA Price \$3621.84*	1	EA	\$3,621.84	EA	\$3,621.84

Total: \$21,675.82

QUOTATION:

LESS THERE ARE DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS CONTAINED IN A MASTER AGREEMENT THAT MODIFY WESCO'S
STANDARD TERMS, BUYER AGREES THAT THIS QUOTE AND ANY RESULTING PURCHASE ORDER WILL BE GOVERNED BY WESCO'S TERMS AND
CONDITIONS AVAILABLE AT [HTTP://WWW.WESCO.COM/TERMS AND CONDITIONS OF SALE.PDF](http://www.wesco.com/terms_and_conditions_of_sale.pdf), AS SUCH TERMS MAY BE UPDATED FROM
TIME TO TIME, WHICH TERMS ARE INCORPORATED HEREIN BY REFERENCE AND MADE PART HEREOF. PLEASE CONTACT THE SELLER
IDENTIFIED ON THIS QUOTE IF YOU REQUIRE A PRINTED COPY.

PRICE IN EFFECT AT TIME OF SHIPPING (NOT AT TIME OF ORDER).

WESCO DISTRIBUTION, INC. TERMS AND CONDITIONS OF SALE - 110308

1. WESCO'S Terms and Conditions Control the Agreement.

A. These terms and conditions are incorporated into and made a part of the agreement or proposal ("Agreement") by WESCO Distribution, Inc. and any of its domestic subsidiaries, unincorporated divisions or affiliates ("WESCO") to sell to the named Buyer the goods referenced on the face of this document ("Goods") and services (including, without limitation, any material management, assembly and kitting services, and engineering and design services (whether performed by WESCO or a subcontractor)) referenced on the face of this document ("Services"). The Agreement expressly limits Buyer's acceptance to these terms and conditions. Buyer may reject the Agreement by not ordering or receiving any Goods or Services. The Agreement does not constitute an acceptance by WESCO of any offer or counteroffer of Buyer, and WESCO hereby rejects any additional, different, or inconsistent terms, conditions or limitations contained in or incorporated by reference in any forms, purchase orders or other documents of Buyer that already have been or hereafter may be presented to WESCO with respect to the Agreement.

B. If Buyer has submitted or will submit additional and/or different terms and conditions to WESCO, or submit a counteroffer to WESCO, WESCO's subsequent performance will not be construed as either acceptance of Buyer's additional and/or different terms and conditions or Buyer's counteroffer, nor will WESCO's subsequent performance be viewed as a willingness to accept any provision of the Uniform Commercial Code, as adopted by any State or Commonwealth, that is contrary or in addition to any of the terms and conditions hereof.

2. Prices.

A. Unless otherwise agreed to by WESCO in writing, WESCO's prices for the Goods and Services will be the prices stated on the face of this document or WESCO's standard prices for such Goods and Services as of the date hereof, provided that, where standard prices for Goods in the quantities ordered as calculated by WESCO extend beyond two decimal places, WESCO shall round such prices for Goods to the nearest two decimal places for purposes of determining Buyer's payment obligation with respect to such Goods; provided, however, that WESCO may change the price for the Goods and Services in accordance with any change to its standard pricing for such Goods and Services prior to the date of shipment of Goods or performance of Services, as the case may be.

B. The prices of any and all Goods and Services shall be confidential, and Buyer shall not disclose such prices to any unrelated third party. WESCO and Buyer acknowledge and agree that money damages for any and all breaches of Buyer's obligation not to disclose the price of any Goods or Services is both incalculable and insufficient and that any such breach would irreparably harm WESCO. Therefore, in the event of an actual or prospective breach of the obligation of Buyer not to disclose the prices of any Goods and Services, WESCO shall be entitled to a permanent and/or a preliminary injunction to prevent or remedy such breach and shall have the right to specific enforcement of this Agreement against Buyer in addition to any other remedies to which WESCO may be entitled at law or in equity.

3. Specifications. Unless WESCO has expressly agreed otherwise in writing, it is Buyer's responsibility to ensure that the Goods and Services are the ones that it has requested and that all specifications and quantities are correct. **WESCO HEREBY EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES THAT GOODS AND SERVICES CONFORM TO ANY SPECIFICATIONS, DRAWINGS, DESIGNS, OR SAMPLES.**

4. Shipment of Goods; Performance of Services.

A. Shipment of all Goods shall be made F.O.B. point of shipment (Ex Works WESCO's facility per INCOTERMS 2000 for international shipments). Buyer shall bear the risk of loss and damage to Goods after delivery to the point of shipment.

B. Any shipping dates for Goods or performance dates for Services given in advance of actual shipment of Goods or performance of Services are WESCO's best estimates for informational purposes only, and deliveries of Goods and performance of Services will be made subject to prior orders on file with WESCO. Unless otherwise agreed to by WESCO in writing, WESCO may, in its sole discretion, use any commercial carriers for shipment of the Goods. WESCO will use its reasonable efforts to comply with Buyer's requests as to method and route of transportation, but WESCO reserves the right to use an alternate method or route of transportation, whether or not at a higher rate.

C. Unless otherwise agreed to by WESCO in writing, Buyer will pay all insurance costs in connection with delivery of the Goods, if any, and be responsible for filing and pursuing claims with carriers for loss of, or damage to, Goods in transit.

D. Buyer is responsible for obtaining all its sole cost and expense any and all necessary licenses and permits for the Goods and Services, including, without limitation, any licenses and permits for transportation.

E. If Buyer is unable to receive the Goods when they are tendered, Buyer will be liable to WESCO for any losses, damages, or additional expenses incurred or suffered by WESCO as a result of Buyer's inability to receive the Goods.

F. Buyer immediately will inspect all Goods upon its receipt of them and will be deemed to accept the Goods upon receipt. Any claims for shortages or discrepancies will be waived by Buyer unless made in writing to WESCO within five days of receipt of the Goods.

G. For wire and cable, delivery length tolerance is $\pm 10\%$. Cutting and Reel charges will apply when other than standard manufacturer lengths are requested and delivery lead-times may be adjusted.

H. WESCO may cancel in whole or in part any order for Goods or Services under the Agreement at any time.

I. Until Buyer has fully and finally paid all amounts owed to WESCO for any Goods, Buyer shall hold such Goods in trust for WESCO, and WESCO may repossess them if Buyer fails to pay for them in a timely fashion.

5. Payment.

A. All payments for Goods and Services must be made in United States currency unless specified in writing by WESCO. Payments for Goods and Services will be made by such means as WESCO may specify, such as by check or wire transfer, provided that WESCO may refuse, in its sole discretion, payment by any means, including, without limitation, credit cards.

B. Payment for Goods and Services is due within 30 days from the date of WESCO's invoice; provided, however, that WESCO reserves the right, in its sole discretion, to require full payment in cash before order entry, shipment, or delivery.

C. WESCO shall have the right to offset any and all amounts due and owing from WESCO to Buyer under this Agreement, including, without limitation, any chargebacks or rebates, against any amounts due and owing from Buyer to WESCO under this Agreement.

D. If Buyer defaults in payment, Buyer will be liable for all collection costs incurred by WESCO including, but not limited to, attorneys' and collection agency fees, and all related disbursements.

E. If Buyer does not pay when payment is due, past due amounts are subject to service charges of one and a half percent (1 1/2%) per month or the maximum percentage rate permitted by law, whichever is less.

6. Taxes. The purchase price of the Goods and Services does not include transportation taxes and sales, use, excise, import or any similar tax or other governmental charge arising pursuant to or in connection with the sale, purchase, processing, delivery, storage, use, consumption, performance or transportation of the Goods and Services. Buyer is responsible for payment of any transportation taxes, and any present or future sales, use, excise, import or any similar tax or other governmental charge applicable to the Agreement and to the sale and/or furnishing of the Goods and Services.

7. Cancellation. Buyer may cancel its order for Goods and/or Services, but only if WESCO agrees to such cancellation in writing and only after Buyer pays reasonable charges for expenses already incurred and commitments made by WESCO in connection with the placement of such order(s).

8. Disclaimer of Warranties. **WESCO HEREBY EXPRESSLY DISCLAIMS AND EXCLUDES ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN OR ORAL, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY CONTRACT, AT LAW, IN EQUITY, BY STRICT LIABILITY OR OTHERWISE, WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY AGAINST DEFECTS IN DESIGN, MATERIALS AND WORKMANSHIP, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY AGAINST REDHIBITORY DEFECTS, ANY WARRANTY OF GOOD TITLE, AND ANY WARRANTY AGAINST INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY PATENTS, TRADEMARKS, OR COPYRIGHTS.** WESCO shall, however, if given prompt written notice by Buyer of any claim of alleged patent, trademark or copyright infringement with respect to any Goods use its reasonable efforts to secure for Buyer such indemnity rights as the manufacturer may offer with respect to such Goods.

9. Exclusive Remedy. Buyer's EXCLUSIVE remedy against WESCO for any claim for, or arising out of any in a Good tendered to Buyer is the repair or replacement of the Good, or alternatively, at WESCO's sole election, a refund of the purchase price of the Good. Buyer's EXCLUSIVE remedy against WESCO arising out of any defect in, or in connection with, any Service provided hereunder is the re-performance of that Service or, at WESCO's sole election, a refund of the purchase price of the Service. These remedies only will only be available to Buyer for one year after the Good is tendered or Service is provided to Buyer, and WESCO's obligations under this Section 9 will be void unless Buyer provides WESCO with notice of the defect in the Good or Service within 30 days of discovery of the defect. Any Good returned to WESCO for repair, replacement or refund under this Section 9 will be returned by Buyer in accordance with WESCO's return material authorization procedures then in effect. Returns for a refund may be subject to restocking fees.

10. Limitation of Liability. **NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL: (A) WESCO BE LIABLE TO BUYER FOR ANY CIRCUMSTANTIAL, CONSEQUENTIAL, CONTINGENT, EXEMPLARY, INCIDENTAL, INDIRECT, LIQUIDATED, MATERIAL, PUNITIVE, SPECIAL, SPECULATIVE OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, SALES OR REVENUES, COST OF REPLACEMENT GOODS, LOST BUSINESS OR BUSINESS INTERRUPTIONS, OR ATTORNEYS FEES OR COURT COSTS ARISING IN ANY MANNER PURSUANT TO OR IN CONNECTION WITH THE AGREEMENT, THE GOODS OR THE SERVICES (EVEN IF WESCO IS MADE AWARE OF THE POTENTIAL FOR SUCH DAMAGES); AND (B) WESCO'S TOTAL LIABILITY RELATED TO ANY GOOD OR SERVICE EXCEED THE PURCHASE PRICE OF SUCH GOOD OR SERVICE.**

11. Indemnification.

A. Upon prompt notice by Buyer of any claim of U.S. patent, copyright, or trademark infringement with respect to any Goods or Services, WESCO will use its reasonable efforts to secure for Buyer such indemnity rights as the manufacturer may customarily give with respect to such Goods. This Section 10 sets forth Buyer's sole and exclusive remedy against WESCO regarding the infringement by any Goods or Services of any third party intellectual property rights, including, without limitation, any patents or trademarks.

B. Buyer will indemnify, defend and hold harmless WESCO, its shareholders, officers, directors, employees, agents and representatives from and against all losses, damages, liabilities, costs, and expenses including, but not limited to, property damage, loss of profits or revenue, loss of use of any property, cost of capital, cost of purchased or replacement power or temporary equipment, personal or bodily injury, or death ("Losses"), that may arise pursuant to or in connection with the Agreement, the Goods, or the Services (including, without limitation, Losses arising in connection with the performance of Services on Buyer's premises by WESCO's employees, representatives, agents, or subcontractors), regardless of whether such Losses are suffered directly by Buyer or arise pursuant to or in connection with a third-party suit, claim, counterclaim, demand, judgment or other action (each a "Claim") and regardless of whether or not WESCO or any third-party is proportionately negligent with respect to such Losses and/or Claim, provided that Buyer need not indemnify WESCO for WESCO's obligation, if any, to Buyer under Section 9 above. For the avoidance of doubt and without limitation, this indemnification obligation requires Buyer to pay any judgments against WESCO or any other indemnified party resulting from any Claim, any court costs of WESCO or any other indemnified party in connection with any Claim, and any reasonable attorneys' fees and disbursements incurred by WESCO or any other indemnified party in WESCO's defense of any Claim. WESCO will have the sole and exclusive right to conduct the defense of any Claim at Buyer's sole and exclusive cost and expense. Buyer's indemnification obligation does not depend on the truth or accuracy of any allegations made against WESCO, Buyer or any third party.

12. Product Suitability.

Goods sold by WESCO are designed to meet stated U.S. safety standards and regulations. Because local safety standards and regulations may vary significantly, WESCO cannot guarantee that the Goods meet all applicable requirements in each locality. Buyer assumes responsibility for compliance with such safety standards and regulations in the localities in which the Goods will be shipped, sold and used. Before purchase and use of any Goods, Buyer should review the product application, and national and local codes and regulations, and verify that the use and installation of the Goods will comply with them.

13. Ownership. WESCO shall have and retain all right, title, and interest in and to any and all trade secrets, technical data, sales service and product plans, methodologies, techniques, designs, molds, tools, samples, systems, know-how, expertise and other proprietary information that it may use pursuant to or in connection with any Services, and Buyer shall not obtain a license to, or any other property rights in, any such WESCO property pursuant to or in connection with this Agreement.

14. Export Controls; Availability; Laws.

A. Certain Goods may be subject to export controls under the laws, regulations and/or directives of the United States and various other countries. Buyer must comply with such laws and regulations and not export, re-export or transfer these Goods to any country to which such export, re-export, or transfer is forbidden or without first obtaining all required authorizations or licenses.

B. Due to government regulations and product availability, not all goods sold by WESCO may be available in every area.

C. Buyer hereby warrants and represents that it will comply with any and all Laws with respect to the purchase, use, and operation of any and all Goods and Services. For purposes hereof, "Laws" means any international, multinational, national, foreign, federal, state, municipal, local (or other political subdivision) or administrative laws, constitutions, statutes, codes, ordinances, rules, regulations, requirements, standards, policies or guidelines having the force of law, treaties, judgments or orders of any kind or nature whatsoever, including, without limitation, any judgment or principle of common law.

15. Interpretation of the Agreement.

None of WESCO's or Buyer's shareholders, directors, officers, partners, managers, employees, agents or representatives have any authority to orally modify or alter in any way the terms and conditions of the Agreement. The terms, conditions, and limitations set forth in the Agreement can be modified, altered, or added to only by a subsequent written instrument signed by an authorized representative of WESCO or by language included on the face hereof. Regardless of how many times Buyer purchases, or has purchased, goods and services from WESCO by whatever means, each time Buyer accepts the Agreement, Buyer and WESCO enter into a separate agreement that will be interpreted without reference to any other agreement between Buyer and WESCO, or what Buyer may claim to be a course of dealing or course of performance that has arisen between Buyer and WESCO. No inconsistent usage of trade or industry custom, if any, prior to, contemporaneous with or subsequent to the making of the Agreement will waive, vary, serve to explain or serve to interpret any of the terms, conditions and limitations of the Agreement. The Agreement is the sole and exclusive agreement with respect to the matters discussed herein and the provision of Goods and Services hereunder, (except for any contemporaneous writing agreed to in writing by WESCO expressly modifying the terms and conditions hereof, which is hereby incorporated herein by reference and made a part hereof) and supersedes all prior and contemporaneous agreements and understandings, negotiations, inducements, representations or conditions, whether oral or written, whether express or implied, with respect to such matters. Failure by WESCO to enforce any of the terms, conditions and limitations of the Agreement will not constitute a waiver of those terms, conditions and limitations or a waiver of any other terms, conditions or limitations of the Agreement, and the failure of WESCO to exercise any right (whether provided by the Agreement, law, equity, or otherwise) arising from Buyer's default under the Agreement will not constitute a waiver of that right or any other rights.

16. Force Majeure. WESCO will not be liable for its failure to perform under the Agreement (including, without limitation, the failure to deliver any Goods or perform any Services) due to circumstances beyond its control, including, without limitation, fire, flood, earthquake, pestilence or similar catastrophe; war, act of terrorism, or strike; lack of or failure of transportation facilities, shortage of suitable parts, materials or labor; any existing or future law, rule, regulation, decree, treaty, proclamation, or order of any governmental agency; inability to secure fuel, materials, supplies, equipment or power at reasonable prices or in sufficient amounts; act of God or the public enemy; or any other event or cause beyond WESCO's reasonable control, including, without limitation, any delay caused by Buyer (each, a "Force Majeure Event"). If any Force Majeure Event prevents WESCO's performance of any of its obligations under the Agreement, WESCO will have the right to (a) change, terminate or cancel the Agreement, or (b) omit during the period of the Force Majeure Event all or any portion of the quantity of the Goods deliverable during that period, whereupon the total quantity deliverable under the Agreement will be reduced by the quantity omitted. If WESCO is unable to supply the total demands for any Goods to be delivered under the Agreement due to a Force Majeure Event, WESCO will have the right to allocate its available supply among its customers in whatever manner WESCO deems to be fair and equitable. In no event will WESCO be obligated to purchase materials from other than its regular sources of supply in order to enable it to supply Goods to Buyer under the Agreement. No change, cancellation or proration by WESCO will be deemed to be a breach of any clause, provision, term, condition, or covenant of the Agreement.

17. Choice of Law; Choice of Venue. The negotiation, execution, performance, termination, interpretation and construction of the Agreement will be governed by the law of the Commonwealth of Pennsylvania, except for Pennsylvania's choice of law rules, and expressly excluding the United Nations Convention on Contracts for the International Sale of Goods. If either WESCO or Buyer brings a lawsuit or any other action arising out of the Agreement against the other party, such party must file its lawsuit or other action in a state or federal court located in Pittsburgh, Pennsylvania. WESCO and Buyer expressly submit to the exclusive jurisdiction of those courts and consent to venue in those courts, and WESCO and Buyer consent to extra-territorial service of process on WESCO and Buyer. In the event of litigation pertaining to any matter covered by the Agreement, each of WESCO and Buyer hereby agree to waive any right that it may have to a jury trial of any or all issues that may be raised in such litigation. Nothing contained in the Agreement will be construed to limit or waive any rights of WESCO under applicable United States federal, state, or local laws. Any provision of the Agreement held to be invalid, illegal or unenforceable will be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof.

18. Binding Authority. Any director, officer, employee, representative, or agent of Buyer signing or otherwise entering into this Agreement hereby represents and warrants that he or she is duly authorized to execute and enter into this Agreement on behalf of Buyer.